

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

EBEN ALEXANDER, III, M.D.,)	
Plaintiff,)	
)	
v.)	C.A. No. 04-12149-MLW
)	
BRIGHAM & WOMEN'S PHYSICIANS)	
ORGANIZATION, INC., et al.,)	
Defendants)	

ORDER

WOLF, D.J.

November 30, 2004

For the reasons stated in court on November 29, 2004, it is hereby ORDERED that:

1. Defendants Brigham and Women's Physicians Organization's ("BWPO") Motion to Dismiss (Docket No. 5) is ALLOWED in part and DENIED in part.

The Motion is ALLOWED as to Counts I and III; as to Counts V, VI, VIII and XIII with respect to defendant BWPO; and as to Counts IX through XII with respect to defendants Fidelity Investments Institutional Operations Company, Inc ("Fidelity") and Fidelity Management Trust Company ("FMTC").

The Motion is ALLOWED WITHOUT PREJUDICE as to Counts II and IV and as to Counts V through VIII with respect to defendants Boston Neurosurgical Foundation, Inc. and Dr. Peter Black, M.D.

The Motion is DENIED with respect to Counts IX through XII with respect to all defendants except Fidelity and FMTC.

2. Counsel shall meet to discuss the possibility of settlement and, by December 17, 2004, report concerning the status of their

discussions, and whether they seek more time in which to pursue settlement and/or a settlement conference with the court.

3. Plaintiff shall, by January 5, 2005, file an Amended Complaint.

4. Defendants shall, by January 28, 2005, respond to Plaintiff's Amended Complaint.

5. The parties shall, by February 4, 2005, report, jointly if possible, with regard to whether discovery is permissible with regard to any counts and, in any event, propose a schedule for the resolution of this case.

6. A scheduling conference shall be held on February 10, 2005 at 4:00 p.m.

/s/ Mark L. Wolf
UNITED STATES DISTRICT JUDGE